IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2612 OF 2005.
IN
WRIT PETITION NO. 1175 OF 2005.

Shri Anil Devendra Varoor
and another. ... Applicants.

V/s.

Shri Sunil Yashpal Kohli. ... Respondent.

Smt.S.M.Dandekar for the applicants.

Smt.Anita Agarwal for the respondent.

CORAM: V.C.DAGA, J.

DATED: 15th December 2005.

P.C.:

. Heard learned counsel for the rival parties.

2. This application is moved by the respondents- licensors seeking direction against the petitioner to pay the arrears of compensation from June, 2000 to June, 2003 @ Rs.2,500/- per month amounting to Rs.92,500/-.

3. It is not in dispute that at the time when the petitioner was permitted to occupy the suit premises he had made deposit of Rs.20,000/- with the licensors. In that view of the matter, petitioner- licensee would be, prima facie, entitled to get back the said amount of

Rs.20,000/-, subject to the rights of the licensors to claim adjustment therefrom.

4. It is also not in dispute that during the pendency of this petition, vide order dated 26th July, 2005 the petitioner was directed to pay arrears of compensation @ Rs.2,500/- per month from July, 2003 till the date of the order and was further directed to continue to pay at the same rate during the pendency of the petition. There is no dispute that this order dated 26th July, 2005 directing payment @ Rs.2,500/- per month has been complied with in its true letter and spirit.

5. So far as arrears of compensation from June 2000 to June 2003 are concerned, prima facie; there is no, material on record to show that the amount of arrears has been paid by the licensee to the licensors.

6. As a matter of fact, vide judgment and order dated 23rd March, 2004 incorporated at Exh.A, the Competent Authority has held that the respondents- licensors are entitled to compensation @ Rs.9,500/- per month from 2nd June, 2000 till the date of actual delivery of possession. Needless to mention that if the petition fails, the petitioner would be liable to discharge this liability. However, since this

Court has directed the petitioner to pay Rs.2,500/- towards monthly compensation during pendency of the petition, following this order, the petitioner shall be liable to pay arrears of compensation from June 2000 to June 2003 at least @ Rs.2,500/- per month amounting to Rs.92,500/-. However, since there seems to be some dispute with respect to the figures of payment, I direct the petitioner- licensee to pay Rs.70,000/- on account, pending final adjustment of account, within eight weeks from today.

7. Needless to mention that payment and receipt of the arrears of compensation shall not create any right or equity in favour of either of the parties. The payment and receipt thereof shall be subject to the final result of the petition.

8. It is, however, made clear that failure on the part of the petitioner- licensee to comply with this order, the interim relief operating in favour of the petitioner shall stand automatically vacated without reference to the Court.

9. Civil application stands disposed of in terms of this order with no order as to costs.

(V.C. DAGA, J.)